

# **Judicial Inquiry Commission**



## **Functional Analysis & Records Disposition Authority**

**Presented to the  
State Records Commission  
April 26, 2001**

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# Functional and Organizational Analysis of the Judicial Inquiry Commission

## Sources of Information

- Representatives of the Judicial Inquiry Commission
- Constitution of Alabama, 1901, Amendment Nos. 328 and 581
- Judicial Inquiry Rules of Procedures Adopted by the Supreme Court
- Alabama Government Manual (1998)
- Government Records Division, State Agency Files (1985-ongoing)

## Historical Context

In 1971, Act 1187 called for an amendment to the constitution regarding the removal of judges. Amendment 317 was ratified in January 1972 and created the Judicial Commission to investigate judges and to hold hearings. The Judicial Commission was replaced by the Judicial Inquiry Commission when Amendment 328 was ratified in December 1973. Amendment 581, which was ratified in June 1996, increased the membership of the commission from seven to nine members. The rules governing the procedures of the commission were approved by the Supreme Court in April 1975.

## Agency Organization

The commission consists of nine members as follows: one appellate judge appointed by the Supreme Court; two circuit judges appointed by the Circuit Judges' Association; three non-lawyers appointed by the governor, subject to Senate confirmation; one district judge appointed by the lieutenant governor, subject to senate confirmation; and two members of the state bar appointed by the governing body of the Alabama State Bar. Terms are for four years. The commission selects a chairman. The Supreme Court adopts rules governing the procedures of the commission. An organizational chart is attached.

## Agency Function and Subfunctions

The mandated function of the Judicial Inquiry Commission is to investigate allegations of misconduct in office, of violation of the Canons of Judicial Ethics, or of disability made against any judge of a court of the judicial system of this state. The commission is one of the agencies primarily involved in carrying out the Regulatory function of Alabama government.

In the performance of its mandated function, the commission may engage in the following subfunctions:

- **Investigating.** The commission considers all complaints of judicial misconduct it receives and may also initiate complaints. Judicial misconduct usually involves a violation of the Canons of Judicial Ethics. The commission does not investigate

complaints that allege only erroneous applications of the law or rulings that can be appealed. The commission conducts appropriate investigations of other complaints. It may subpoena witnesses and/or evidence and punish for contempt of the commission. Meetings of the commission are closed to the public. When a majority of the members of the commission decide that a reasonable basis exists to charge a judge with violation of a canon of judicial ethics, misconduct in office, failure to perform duties, or a physical or mental inability to perform duties, the commission files a complaint with the Court of the Judiciary. The filing of a charge initiates a public proceeding before the Court of the Judiciary that is prosecuted by the commission. The attorney general handles the prosecution for the commission except where, in the opinion of the commission, there exists or may arise a conflict of interest or where the interests of justice would not thereby be served, in which case the commission may employ counsel to prosecute the charge.

- **Advising.** The commission issues advisory opinions in response to judges' requests concerning whether certain specified actions, contemplated or proposed, may constitute a violation of the Canons of Judicial Ethics.
- **Administering Internal Operations.** A significant portion of the agency's work includes general administrative, financial, and personnel activities performed to support the programmatic areas of the agency.

**Managing the Agency:** Activities involved in managing the agency may include internal office management activities such as corresponding and communicating; scheduling; meeting; creating policy and procedures; reporting; litigating; legislating (drafting, lobbying, tracking); publicizing and providing information; managing records; and managing information systems and technology.

**Managing Finances:** Activities involved in managing finances may include the following: budgeting (preparing and reviewing the budget package, submitting the budget package to the Department of Finance, and documenting amendments and performance of the budget); purchasing (requisitioning and purchasing supplies and equipment, receipting and invoicing for goods, and authorizing payment for products received); accounting for the expenditure, encumbrance, disbursement, and reconciliation of funds within the agency's budget through a uniform system of accounting and reporting; authorizing travel; contracting with companies or individuals; bidding for products and services; and assisting in the audit process.

**Managing Human Resources:** Activities involved in managing human resources may include the following: recruiting and hiring eligible individuals to fill vacant positions within the agency; providing compensation and benefits to employees; supervising employees (evaluating performance, disciplining, granting leave, and monitoring the accumulation of leave); and providing training and continuing education for employees.

**Managing Properties, Facilities, and Resources:** Activities involved in managing properties, facilities, and resources may include the following: inventorying and accounting for non-consumable property and reporting property information to the appropriate authority; constructing buildings and facilities; leasing and/or renting offices or facilities; providing for security and/or insurance for property; and assigning, inspecting, and maintaining agency property, including vehicles.

# Analysis of Record Keeping System and Records Appraisal of the Judicial Inquiry Commission

## Agency Record Keeping System

The Judicial Inquiry Commission operates a hybrid system composed of computer and paper records.

**Computer Systems:** The complaint database is maintained in Microsoft Access, but all of the information in the database is also in the paper records of the commission. The commission has a website, <http://www.alalinc.net/jic/>, where the text of the commission's advisory opinions since 1976 can be searched. The website is a partner page of the Supreme Court Library's website.

## Records Appraisal

The following is a discussion of the two major categories of records created and/or maintained by the Judicial Inquiry Commission: Temporary Records and Permanent Records.

**I. Temporary Records.** Temporary records should be held for what is considered to be their active life and disposed of once all fiscal, legal and administrative requirements have been met. Some of the temporary records created by the Judicial Inquiry Commission are discussed below.

- **Judges Files.** A file is created for each judge who has a complaint filed against him/her. These files include all complaints made against a judge, information gathered regarding the complaint, and the disposition of the complaint by the commission. If the complaint results in a charge being filed before the Court of the Judiciary, which is a separate state agency, a case file is also created. Judges files are recommended to be maintained for the life of the judge.
- **Advisory Opinion Correspondence.** The commission issues advisory opinions in response to judges' requests concerning whether certain specified actions, contemplated or proposed, may constitute a violation of the Canons of Judicial Ethics. The advisory opinion correspondence documents correspondence with a judge requesting informal information/opinions that do not result in the issuance of formal advisory opinions.

**II. Permanent Records.** The Government Records Division recommends the following records as permanent.

## Investigating

- **Case Files.** When a complaint against a judge results in charges being brought before the Court of the Judiciary, a case file is created. This file documents the decision by the commission that action is warranted and the results of that action. **(Bibliographic Title: Case Files)**

- **Log of Complaints.** When a complaint is filed with or initiated by the commission, it is logged into the complaint log. The log is necessary to document trends of complaints and frequency of complaints, which cannot be determined by summary documentation.
- **Agendas and Minutes of the Commission.** The agendas document the items to be discussed at the meetings and the minutes document the decisions made by the commission regarding agenda items. These records are necessary to document the actions of the commission as well as the results of complaints filed against judges.

## **Advising**

- **Advisory Opinion Files.** The commission issues an advisory opinion in response to a judge's request concerning whether certain specified actions contemplated or proposed to be taken may constitute a violation of the Canons of Judicial Ethics. The files contain the written request, any additional information supplied by the judge, any pertinent research, and a copy of the opinion issued. These files are necessary to document the request for an opinion and the opinions issued by the commission.
- **Advisory Opinions.** The commission issues an advisory opinion in response to a judge's requests concerning whether certain specified actions contemplated or proposed to be taken may constitute a violation of the Canons of Judicial Ethics. These records are copies of the actual opinion issued without the name of the judge requesting the opinion and are therefore open to public inspection. The advisory opinions are necessary to document the opinions issued by the commission. **(Bibliographic Title: Advisory Opinions)**

## **Administering Internal Operations**

- **News Releases.** These records consist of news releases of the agency for purposes of publicity. They provide useful information documenting the activities of the agency. **(Bibliographic Title: News Releases)**
- **Publications.** These records are created to build public awareness about a variety of issues and agency activities. The publications are necessary to document what the agency tells the public and how the agency views itself. **(Bibliographic Title: State Publications)**
- **Annual Reports.** The annual reports are summary documentation of the activities of the agency. **(Bibliographic Title: Annual Reports)**

## **III. Accessibility of Records.**

According to Rule 5 of the Judicial Inquiry Rules issued by the Supreme Court, "all proceedings of the commission shall be confidential, except the filing of a complaint with the court of the judiciary, provided, however, that none of the following actions permitted to be taken by the commission shall be deemed a violation of this rule:

(a) When a judge has been publicly charged or is the subject of an investigation by the commission, or in any proceeding in which the subject matter is generally known to the public and in which there is a broad public interest, the commission may, at the request of the judge involved, issue one or more announcements confirming or denying the existence of charges before it, clarifying the procedural aspects, or defending the right of a judge to a fair hearing, or in order to preserve public confidence in the administration of justice.

(b) In any instance where accusations against a judge have been considered by the commission and it has been determined that there is no basis for the filing of the charges against him/her or for further proceedings before the commission, the commission may, at the request of the judge, issue an explanatory statement.

(c) The commission may, from time to time, issue press releases and other public statements explaining the nature of its jurisdiction, procedures for institution of complaints, limitations upon its powers and authority, and reports on the conduct of the affairs of the commission, provided that such releases and reports shall not identify by name, position, address or otherwise the identity of any judge or other person involved in any inquiry before the commission.”



# **Permanent Records List Judicial Inquiry Commission**

## **Investigating**

1. Case Files
2. Log of Complaints\*
3. Agenda and Minutes of the Commission\*

## **Advising**

1. Advisory Opinion Files\*
2. Advisory Opinions

## **Administering Internal Operations**

1. News Releases
2. Publications
3. Annual Reports

\*indicates records that ADAH anticipates will remain in the care and custody of the creating agency.

ADAH staff members are available to work with agency staff in determining the best location and storage conditions for the long-term care and maintenance of permanent records.

# **Judicial Inquiry Commission Records Disposition Authority**

This Records Disposition Authority (RDA) is issued by the State Records Commission under the authority granted by the Code of Alabama 1975 § 41-13-5 and § 41-13-20 through 21. It was compiled by the Government Records Division, Alabama Department of Archives and History (ADAH), which serves as the commission's staff, in cooperation with representatives of the Judicial Inquiry Commission. The RDA lists records created and maintained by the Judicial Inquiry Commission in carrying out its mandated functions and activities. It establishes retention periods and disposition instructions for those records and provides the legal authority for the Judicial Inquiry Commission to implement records destruction.

Alabama law requires public officials to create and maintain records that document the business of their offices. These records must be protected from "mutilation, loss, or destruction," so that they may be transferred to an official's successor in office and made available to members of the public. Under the Code of Alabama 1975 § 36-12-40, "every citizen has a right to inspect and take a copy of any public writing in this state, except as otherwise expressly provided by statute." Records must be kept in accordance with auditing standards approved by the Examiners of Public Accounts (Code of Alabama 1975 § 36-12-2, § 36-12-4, and § 41-5-23). For assistance in implementing this RDA, or for advice on records disposition or other records management concerns, contact the ADAH Government Records Division at (334) 242-4452.

## **Explanation of Records Requirements**

- This RDA supersedes any previous records disposition schedules governing the retention of the Judicial Inquiry Commission's records. Copies of superseded schedules are no longer valid and should be discarded
- The RDA establishes retention and disposition instructions for records listed below, regardless of the medium on which those records may be kept.
- Electronic mail is a communications tool that may record permanent or temporary information. As for records in any other format, the retention periods for e-mail records are governed by the requirements of the subfunctions to which the records belong.
- Some temporary records listed under the Administering Internal Operations subfunction of this RDA represent duplicate copies of records listed for long-term or permanent retention in the RDAs of other agencies.
- Certain records and records-related materials need not be retained as records under the disposition requirements in this RDA. Such materials include: (1) duplicate record copies that do not require official action, so long as the creating office maintains the original record for the period required; (2) catalogs, trade journals, and other publications received that require no action and do not document government activities; (3) stocks of blank stationery, blank forms, or other surplus materials that are not subject to audit and have become obsolete; (4) transitory records, which are temporary records created for short-term, internal purposes that may include, but are not limited to: telephone call-back

messages; drafts of ordinary documents not needed for their evidential value; copies of material sent for information purposes but not needed by the receiving office for future business; and internal communications about social activities; and (5) honorary materials, plaques, awards, presentations, certificates, and gifts received or maintained by the agency staff.. They may be disposed of without documentation of destruction.

## **Records Disposition Requirements**

This section of the RDA is arranged by subfunctions of the Judicial Inquiry Commission and lists the groups of records created and/or maintained by the commission as a result of activities and transactions performed in carrying out these subfunctions. The commission may submit requests to revise specific records disposition requirements to the State Records Commission for consideration at its regular quarterly meetings.

### **Investigating**

#### **Judges Files**

Disposition: Temporary Record. Retain for life of the judge.

#### **CASE FILES**

Disposition: PERMANENT RECORD.

#### **LOG OF COMPLAINTS**

Disposition: PERMANENT RECORD. Retain in office.

#### **AGENDA AND MINUTES OF THE COMMISSION**

Disposition: PERMANENT RECORD. Retain in office.

### **Advising**

#### **ADVISORY OPINION FILES**

Disposition: PERMANENT RECORD. Retain in office.

#### **ADVISORY OPINIONS**

Disposition: PERMANENT RECORD.

#### **Advisory Opinion Correspondence**

Disposition: Disposition: Temporary Record. Retain 20 years.

### **Administering Internal Operations: Managing the Agency**

#### **NEWS RELEASES**

Disposition: PERMANENT RECORD.

#### **PUBLICATIONS**

Disposition: PERMANENT RECORD.

**ANNUAL REPORTS**

Disposition: PERMANENT RECORD.

**Board Meeting Notices**

Disposition: Temporary Record. Retain 3 years after end of the fiscal year in which the records were created.

**Appointment Letters**

Disposition: Temporary Record. Retain 3 years after end of the fiscal year in which the term expired.

**Routine Correspondence (includes requests for information)**

Disposition: Temporary Record. Retain 3 years after end of the fiscal year in which the records were created.

**Mailing Lists**

Disposition: Temporary Record. Retain for useful life.

**Administrative Reference Files**

Disposition: Temporary Record. Retain for useful life.

**Records documenting the implementation of the agency's approved RDA, including copies of transmittals for records transmitted to the State Records Center, records transferred to ADAH, and the agency's annual report to the State Records Commission**

Disposition: Temporary Record. Retain 3 years after end of the fiscal year in which the records were created.

**Copy of RDA**

Disposition: Temporary Record. Retain 3 years after end of the fiscal year in which the RDA is superseded.

**Computer System Documentation (hardware/software manuals and diskettes, warranties, records of access/authorities, file naming conventions, and Y2K Records)**

Disposition: Temporary Record. Retain documentation of former system 3 years after the end of the fiscal year in which the former hardware and software no longer exists anywhere in the agency and all permanent records have been migrated to a new system.

**Printouts of Acknowledgment from the Secretary of State Relating to Notices of Meetings Posted by State Agencies**

Disposition: Temporary Record. Retain 3 years.

## **Administering Internal Operations: Managing Finances**

**Records documenting the preparation of a budget request package and reporting of the status of funds, requesting amendments of allotments, and reporting program performance**

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the records were created.

**Records documenting the requisitioning and purchasing of supplies and equipment, receipting and invoicing for goods, and authorizing payment for products**

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the records were created.

**Records of original entry or routine accounting transactions, such as journals, registers, and ledgers, and records of funds deposited outside the state treasury, including bank statements, deposit slips, and cancelled checks**

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the records were created.

**Records documenting requests for authorization from supervisors to travel on official business and other related materials, such as travel reimbursement forms and itineraries**

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the records were created.

**Records documenting contracts for supplies, equipment, and services**

Disposition: Temporary Record. Retain 6 years after expiration of the contract.

**Records documenting the bid process, including requests for proposals and unsuccessful responses**

- a. Original Bid Records Maintained in the Purchasing Office of the Agency for Contracts over \$7500

Disposition: Temporary Record. Retain 7 years after the end of the fiscal year in which the bids were opened.

- b. Duplicate copies of bid (where originals are maintained by the Finance Department - Division of Purchasing)

Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the bids were opened.

**Agency Audit Report**

Disposition: Temporary Record. Retain 3 years after end of the fiscal year in which the records were created.

## **Administering Internal Operations: Managing Human Resources**

### **Job Recruitment Materials**

Disposition: Temporary Record. Retain 3 years after end of the fiscal year in which the records were created.

### **Records documenting payroll**

Disposition: Temporary Record. Retain 6 years after end of the fiscal year in which the records were created.

### **Records documenting employee hours worked, leave earned, and leave taken**

Disposition: Temporary Record. Retain 3 years after end of the fiscal year in which the records were created.

### **Records documenting payroll deductions for tax purposes**

Disposition: Temporary Record. Retain 3 years after end of tax year in which the records were created.

### **Records documenting payroll deduction authorizations**

Disposition: Temporary Record. Retain 6 years after separation of employee from the agency.

### **Records documenting an employee's work history – generally maintained as a case file**

Disposition: Temporary Record. Retain 25 years after separation of an employee from the agency.

## **Administering Internal Operations: Managing Properties, Facilities, and Resources**

### **SEMIANNUAL INVENTORY LISTS**

Disposition: PERMANENT RECORD. Retain in office (Code of Alabama 1975 § 36-16-8[1]).

### **Agency Copies of Transfer of State Property Forms (SD-1)**

Disposition: Temporary Record. Retain 3 years after end of the fiscal year in which the records were created.

### **Property Inventory Cards and/or Computer Files**

Disposition: Temporary Record. Retain 3 years after end of the fiscal year in which the records were created.

### **Receipts of Responsibility for Property**

Disposition: Temporary Record. Retain until return of item to property manager.

### **Records documenting the lease or rental of office or warehouse space for the department**

Disposition: Temporary Record. Retain 6 years after expiration of the lease.

## **Approval of Records Disposition Authority (RDA)**

By signing this agreement, the Judicial Inquiry Commission acknowledges its responsibilities for the proper management of its records and agrees to abide by the implementation guidelines listed below:

- The Judicial Inquiry Commission will designate a managerial position as the agency records officer. This position is responsible for: ensuring the development of quality record keeping systems that meet the business and legal needs of the agency, coordinating the transfer and destruction of records, ensuring that permanent records held on alternative storage media (such as microforms and digital imaging systems) are maintained in compliance with national and state standards, submitting an annual report on records management activities to the State Records Commission in April of each year, and ensuring the regular implementation of the agency's approved RDA.
- Permanent records in the Judicial Inquiry Commission's custody will be maintained under proper intellectual control and in an environment that will ensure their physical order and preservation.
- Destruction of temporary records, as authorized in this RDA, should occur agency-wide on a regular basis – for example, after the successful completion of an audit, at the end of an administration, or at the end of a fiscal year. Despite the RDA's provisions, no record should be destroyed that is necessary to comply with requirements of the state Sunset Act, audit requirements, or any legal notice or subpoena.
- The agency should maintain full documentation of any computerized record-keeping system it employs. It should develop procedures for: (1) backing up all permanent records held in electronic format; (2) storing a back-up copy off-site; and (3) migrating all permanent records when the system is upgraded or replaced. If the agency chooses to maintain permanent records solely in electronic format, it is committed to funding any system upgrades and migration strategies necessary to ensure the records' permanent preservation and accessibility.
- The Judicial Inquiry Commission agrees to allow the staff of the State Records Commission or the Examiners of Public Accounts to verify that permanent records maintained in the custody of the agency are properly managed and stored and to inspect records destruction documentation. Government Records Division archivists are available to train the agency's staff in RDA implementation and otherwise assist the agency in implementing its records management program.

The State Records Commission adopted this Records Disposition Authority on April 26, 2001.

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Edwin C. Bridges, Chairman  
State Records Commission

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Date

Receipt acknowledged:

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Margaret Childers, Executive Director  
Judicial Inquiry Commission

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Date